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| <b>UTILITY PATENT APPLICATION TRANSMITTAL</b><br>(New Nonprovisional Applications Under 37 CFR § 1.53(b)) | Attorney Docket No.<br><b>AB-238U3</b> |
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**TO THE COMMISSIONER FOR PATENTS:**

Transmitted herewith is the patent application of ( ) application identifier or (X) first named inventor, William Vanbrooks Harrison, entitled In The Ear Auxiliary Microphone System for Behind The Ear Hearing Prosthetic for a(n):

( ) Original Patent Application.

(X) Continuing Application (prior application not abandoned):

( ) Continuation (X) Divisional ( ) Continuation-in-part (CIP)  
 of prior Application No. 09/927,130, filed on 8/10/2001.

Enclosed are:

(X) Application Data Sheet 2 Total Sheet(s).

(X) Non-Publication Request 1 Total Sheet(s).

(X) Specification; 15 Total Pages + cover sheet.

(X) Drawing(s); 4 Total Sheets of formal drawings + 4 Total Sheets of copy of drawings.

(X) Oath or Declaration:

( ) A Newly Executed Combined Declaration and Power of Attorney:

( ) Signed. ( ) Unsigned. ( ) Partially Signed.

(X) A Copy from a Prior Application for Continuation/Divisional (37 CFR § 1.63(d)).

(X) Incorporation by Reference. The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered as being part of the disclosure of the accompanying application and is hereby incorporated herein by reference.

( ) Signed Statement Deleting Inventor(s) Named in the Prior Application. (37 CFR § 163(d)(2)).

(X) Return Receipt Postcard.

| CLAIMS AS FILED                              |           |           |         |          |
|--|-----------|-----------|---------|----------|
| FOR  | NO. FILED | NO. EXTRA | RATE    | FEE      |
| Total Claims                                 | 20        | 0         | \$18.00 | \$0.00   |
| Independent Claims                           | 3         | 0         | \$86.00 | \$0.00   |
| Multiple Dependent Claim Fee (if applicable) |           |           |         | \$0.00   |
| Assignment Recording Fee (if applicable)     |           |           |         | \$0.00   |
| Basic Filing Fee                             |           |           |         | \$770.00 |
| Total Filing Fee                             |           |           |         | \$770.00 |

Please charge \$ 770.00 to Deposit Account No. 50-0648 pursuant to 37 CFR § 1.25. At any time during the pendency of this application, the Commissioner is hereby authorized to charge any fees required under any provision of 37 CFR § 1.16 or 37 CFR § 1.17, or credit any overpayment, to the indicated Deposit Account. A duplicate copy of this sheet is enclosed for fee processing against this Deposit Account.

Respectfully submitted,

By: Philip H. Lee  
 Philip H. Lee, Attorney of Record, Reg. No. 50645

Date: April 14, 2004

Correspondence Address: Advanced Bionics Corporation  
 12740 San Fernando Rd.  
 Sylmar, CA 91342

(X) Customer Number : 23845

I hereby certify that this is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated below and is addressed to:

Commissioner for Patents  
 P.O. Box 1450  
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By: Robert D. Contreras

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|   |  |                        |   |
|---|--|------------------------|---|
| <b>NONPUBLICATION REQUEST<br/>UNDER<br/>35 U.S.C. 122(b)(2)(B)(i)</b> |  | First Named Inventor   | Harrison, et al.  |
|   |  | Title                  | In The Ear Auxiliary Microphone System<br>for Behind The Ear Hearing Prosthetic |
|   |  | Attorney Docket Number | AB-238U3  |

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

I hereby request that the attached application not be published under 35 U.S.C. 122(b).

April 14, 2004  
Date

Philip H Lee  
Signature

661-362-1964  
Telephone number

Philip H. Lee, Reg. No. 50645  
Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

This collection of information is required by 37 CFR 1.213(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and selection option 2.